

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE: GRAND JURY SUBPOENA)
) MISC. NO. _____
)

**MOTION TO QUASH GRAND JURY SUBPOENA OR, IN THE ALTERNATIVE,
FOR A PROTECTIVE ORDER**

COMES NOW Movant, Linda A. Howdeshell (“Movant”), by and through undersigned counsel and Brown & James, P.C., and for her Motion to Quash pursuant to Federal Rules of Criminal Procedure (“FRCP”) 17(c)(2) states as follows:

1. Through Assistant United States Attorney, Derek J. Wiseman, the Federal Grand Jury for the Eastern District of Missouri has issued a subpoena directed at Linda A. Howdeshell for, *inter alia*, “Any and all documents in [her] custody or control relative to the financial transactions of The Bailey Foundation.” (Exhibit A, Subpoena).

2. Compliance with the Grand Jury Subpoena would be both unreasonable and oppressive under FRCP 17(c)(2) in that the subpoena contemplated a 16-day period to respond or appear, the documents requested are quite voluminous, and the Movant is currently in the State of Florida which makes an appearance in person in St. Louis, Missouri, before the Grand Jury, in lieu of production of the documents or along with production of the documents, both an expensive and impractical endeavor.

3. Further, the subpoena seeks confidential documents protected by the Missouri Accountant-Client privilege. RSMo 326.322.

4. Movant performed accounting services for The Bailey Foundation in the State of Missouri, and therefore the Missouri Accountant-Client privilege is to be considered applicable to situations through which persons seek documentation created or procured during her service as an accountant on behalf of The Bailey Foundation in Missouri.

5. Although an accountant-client privilege has seemingly not been recognized federally, or within Federal Criminal law, the Missouri Accountant-Client privilege has been recognized, analyzed, and used within certain Federal Civil cases.

6. Movant's failure to comply with the subject Federal Criminal subpoena risks a contempt finding by the Court against Movant under FRCP 17(g).

7. On the one hand, movant risks liability and the potential loss of her accounting license should she produce the documentation considered privileged under Missouri law, and on the other hand, she risks contempt when not complying with the Grand Jury Subpoena.

8. Accordingly, Movant requests that this Court either finds (1) that the records are privileged under Missouri law and that the subpoena should therefore be quashed; or (2) that Missouri law does not apply to this Grand Jury Subpoena and thus issue an Order that Movant produce the documents.

9. Should the Court determine that the requested records are discoverable, and order Movant to produce them, due to their confidentiality under Missouri law, Movant requests that this Court order the records be provided pursuant to a protective order, and that the records are to be inspected *in camera* by the court prior to disclosure such that the Court can judge whether the documents are relevant to the proceedings, and not considered confidential or privileged by the accountant-client privilege within this Federal proceeding.

10. Pursuant to local rule 4.01(A), Movant attaches hereto its Memorandum of Law in Support of the instant Motion.

WHEREFORE Movant, Linda A. Howdeshell, asks that this Court quash the Grand Jury Subpoena seeking confidential and privileged records under the Missouri Accountant-Client privilege, or, should this Court find that the Missouri Accountant-Client privilege does not apply to Federal Grand Jury proceedings, issue an Order for production of the documentation under a protective order so that the records can be reviewed *in camera* prior to their disclosure to the Grand Jury, and for such other relief as this Court deems necessary.

Respectfully submitted,

/s/ Corey L. Kraushaar
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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of April, 2024, the foregoing was sent via e-mail to the following:

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